

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STRIKE 3 HOLDINGS, LLC, a Delaware
corporation,

Plaintiff,

vs.

JOHN DOE subscriber assigned IP address
73.225.38.130,

Defendant.

Case No.: 2:17-cv-01731-TSZ

PLAINTIFF'S INITIAL DISCLOSURES

Plaintiff, Strike 3 Holdings, LLC, hereby provides its initial disclosure as required by the Federal Rules of Civil Procedure 26(a).

Plaintiff does not waive any protection provided by the attorney work-product doctrine, attorney client privilege, or any other applicable privilege, doctrine or immunity. Plaintiff further reserves its right to supplement or amend initial disclosures as additional discovery, investigation and analysis may warrant.

I. INDIVIDUALS LIKELY TO HAVE DISCOVERABLE INFORMATION

Pursuant to Fed. R Civ. P. 26(a)(i), Plaintiff discloses that the following individuals and entities, if known, likely have discoverable information that Plaintiff may use to support its

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claims or defenses. Where it is known, the subject areas of which the individual or entity may have knowledge of is indicated.

1. **Strike 3 Holdings, LLC (“Strike 3”) and its parent company General Media Systems, LLC (“GMS”).**

c/o Fox Rothschild, LLP
Constellation Place
10250 Constellation Blvd., Suite 900
Los Angeles, CA 90067
Tel.: (310) 598-4150

Possesses information regarding the allegations contained within the Complaint, including, but not limited to, Defendant’s copyright infringement as well as the works-in-suit.

2. **Emilie Kennedy** – Employee of GMS.

c/o Fox Rothschild, LLP
Constellation Place
10250 Constellation Blvd., Suite 900
Los Angeles, CA 90067
Tel.: (310) 598-4150

Possesses information relating to the copyright registrations owned by Strike 3 and the business and creative operations of the *Blacked*, *Blacked Raw*, *Tushy* and *Vixen* brands. Also possesses information concerning the detrimental impact of online infringement and the impact of anti-piracy efforts.

3. **Greg Lansky** – Chief Creative Officer.

c/o Fox Rothschild, LLP
Constellation Place
10250 Constellation Blvd., Suite 900
Los Angeles, CA 90067
Tel.: (310) 598-4150

Possesses information relating to the damaging effects mass infringement of Strike 3’s copyrights has on the company, its ability to compete in the online market, and its ability to finance and maintain its standards of quality. In addition, Mr. Lansky possesses unique insights into GMS’s creative process and the techniques and expenses involved in recording and marketing its high-end productions.

4. **Tobias Fieser** – Forensic investigator.

IPP International U.G.
Daimlerstr. 9
76344 Eggenstein, Germany
Tel: +49 (0) 721-97795-78

Possesses information regarding the technology used to trace the eighty works downloaded by Defendant from June 2017 until December 2017, when Plaintiff filed this current lawsuit. Mr. Fieser's company's software recorded and identified Defendant's IP address distributing Plaintiff's movies several hundred times. In addition, the software recorded and identified Defendant's IP address as distributing a significant amount of other copyrighted works that correlates this particular Defendant to the IP address and hence the infringement.

5. **John S. Pasquale** – Forensic specialist

7 River Systems
P.O. Box 2404
Montgomery Village, MD 20886
Tel: (301) 909-8640

Possesses information about the evidence recorded by IPP showing Defendant's IP address was distributing Plaintiff's work over the BitTorrent network, confirming that the PCAP identified both the IP addresses and hit date contained in Plaintiff's Complaint and subpoena.

6. **Susan B. Stalzer** – Comparer.

c/o Fox Rothschild, LLP
Constellation Place
10250 Constellation Blvd., Suite 900
Los Angeles, CA 90067
Tel.: (310) 598-4150

Possesses information that the motion pictures identified by their cryptographic hash value on the BitTorrent network that Defendant's IP address infringed correspond to motion pictures owned by Strike 3.

7. **Comcast Cable Communications, LLC** – Defendant's ISP.

650 Centerton Road
Moorestown, NJ 08057
Tel: (886) 947-8572

Possesses information relating to Defendant's IP address including the date and times Defendant was assigned the IP address, DMCA notices received by Defendant notifying Defendant of the infringement taking place through the IP address, the amount of bandwidth Defendant uses, whether Defendant was required to have a password on the Internet account, whether Defendant violated

Comcast's Terms of Services by allowing others to use his or her Internet, whether Defendant was assigned any other IP addresses, and whether those IP addresses were also used to infringe a large amount of copyrighted works.

8. **Patrick Paige** – Computer forensic investigator.

Computer Forensics, LLC
1880 North Congress Ave. Suite 333
Boynton Beach, Florida 33426
Tel: (561) 404-3074

Mr. Paige is a computer forensics expert that has previously tested IPP's copyright infringement detection system and found that it accurately identifies infringers. Mr. Paige has testified in numerous peer-to-peer file cases and is an expert on the BitTorrent protocol. He is also an expert in detecting infringing activity and spoliation on defendants' hard drives.

9. **Jeff Fischbach** – Computer forensic investigator.

SecondWave Information Systems
9909 Topanga Canyon, Suite 205
Chatsworth, CA 91311
Tel: (818) 773-0400

Mr. Fischbach is a computer forensics expert with more than two decades of experience and specializing in e-discovery. He can testify to how the computer was used and what information has been stored on or subsequently deleted from the hard drive. Mr. Fischbach is also an expert in wireless technology and can testify as to the ability (or more likely lack thereof) of an individual to access Defendant's Internet and use it without authorization.

10. **Residents and visitors in and to Defendant's household**

Unknown

Possess information regarding whether he or she was authorized to access Defendant's IP address, used Defendant's IP address, and/or infringed Plaintiff's copyrights using Defendant's IP address.

11. **Search engines and other BitTorrent scanning companies**

Unknown, but may include www.google.com, www.bing.com, www.duckduckgo.com

Possess information regarding BitTorrent activity among other Internet search-related question that may arise during discovery.

12. **Websites, message boards, tubesites, social media networking sites**

Unknown, but may include www.youtube.com, www.reddit.com, the MindGeek network (www.pornhub.com), www.facebook.com, and www.twitter.com

May possess additional information on Defendant's identity and infringing activities Online as well contain information correlating to evidence by IPP of Defendant's infringing activities, through his or her IP address. Additionally may contain information would demonstrate Defendant's interest in Plaintiff's content as well as other content Plaintiff has recorded Defendant downloading, and that would also show that Defendant used the BitTorrent network to infringe Plaintiff's copyrights.

13. **Adobe Systems Incorporated**

345 Park Avenue
San Jose, CA 95110
Tel: (408) 536-6000

May possess additional information about Defendant's infringement and notice thereof. Adobe has an anti-piracy practice to curb online infringements of its products. The offending IP address was recorded as downloading several Adobe programs. Adobe sends users warnings if the program they are installing is "not genuine," i.e. an unauthorized copy. Adobe would also possess DMCA notices sent to Defendant or Defendant's ISP alerting the parties of the infringement.

14. **Microsoft**

One Microsoft Way
Redmond, WA 98052
Tel: (425) 882-8080

May possess additional information about Defendant's infringement and notice thereof. The offending IP address was recorded as downloading several Windows' programs. Microsoft checks activations keys for copies and even has a hotline to report suspected pirated copies. Microsoft would also possess DMCA notices sent to Defendant or Defendant's ISP alerting the parties of the infringement.

15. **Apple**

One Apple Park Way
Cupertino, CA 95014
Tel: (408) 996-1010

Software Information Industry Association

1090 Vermont Ave. NW Sixth Floor
Washington, DC 20005
Tel: (202) 289-7442

May possess additional information about Defendant's infringement and notice thereof. Apple coordinates with the Software Information Industry Association ("SIIA") to prevent piracy of Apple's programs. The offending IP address was recorded downloading at least one of Apple's program and a training manual. Either Apple or the SIIA may possess DMCA notices sent to Defendant or Defendant's ISP alerting the parties of the infringement.

16. **The Walt Disney Company Antipiracy Group**
500 South Buena Vista Street
Burbank, CA 91521
Tel: (818) 560-3300

May possess additional information about Defendant's infringement and notice thereof. Defendant's IP address was recorded downloading several Disney and Disney affiliate motion pictures. Disney may possess DMCA notices sent to Defendant or Defendant's ISP alerting the parties of the infringement.

17. **Alliance for Creativity and Entertainment**
Unknown
Tel: (202) 677-8732

May possess additional information about Defendant's infringement and notice thereof. Alliance for Creativity and Entertainment ("ACE") is an antipiracy group with the mission of reducing online piracy. It has many members, including, but not limited to, Amazon, HBO, Netflix, and many major motion picture studios. ACE may possess information regarding the piracy of its member's motion pictures.

18. **BMG Rights Management GmbH**
6100 Wilshire Boulevard, Suite #1600
Los Angeles, CA 90048
Tel: (323) 969-0988

May possess additional information about Defendant's infringement and notice thereof. Defendant's IP address was recorded downloading several sound recordings that are owned by BMG Rights Management GmbH. The company may possess information regarding the piracy of its member's motion pictures.

19. **Defendant, Subscriber assigned IP address 73.225.38.130**

Currently unknown to Plaintiff. Defendant possesses information on whether he, or someone else using his Internet, used a BitTorrent software program to infringe Plaintiff's motion pictures.

II. DOCUMENTS IN PLAINTIFF'S POSSESSION, CUSTODY, AND CONTROL THAT MAY BE USED TO SUPPORT CLAIMS AND DEFENSES

Pursuant to Fed. R Civ. P. 26(a)(ii), Plaintiff discloses the following documents, electronically stored information, and tangible things in Plaintiff's possession, custody, or control that may be used to support its claims or defenses.

1. Copyright registrations or completed copyright applications

Plaintiff will provide either copies of its registration certificates or copies of its United States Copyright Office applications.

2. ISP documents correlating the Defendant to the offending IP address

In possession of the ISP. The ISP's response to Plaintiff's subpoena is in possession of the court.

3. Computer data evidencing the TCP/ICP connection and PCAPs

In possession of IPP International U.G. The PCAPs contain evidence of what information was sent from or to Defendant's IP address from the BitTorrent network.

4. Additional evidence of infringement

In possession of Plaintiff and IPP International U.G. Additional computer records that contain evidence of Defendant's infringement, including additional downloads made by the offending IP address recorded by IPP.

5. Contracts and DMCA notices between the ISP and Defendant

In possession of both the ISP and Defendant.

6. Original copies of the movies and copies as reassembled from the pieces sent by the peer infringers

In possession of Plaintiff and IPP International U.G. Both entities have original copies of the works-in-suit. The copies of these works reassembled by infringers may be obtained from Plaintiff through discovery.

7. Affidavits from other defendants that have infringed Plaintiff's Works

In possession of Plaintiff. Affidavits of other defendants admitting to using BitTorrent to infringe Plaintiff's motion pictures who were correctly identified by IPP's system.

8. **Offers of Judgment and Stipulated Judgments from other defendants that have infringed Plaintiff's Works**

In possession of Plaintiff and public records. Judgments where liability has been entered against defendants that have infringed Plaintiff's copyrights, or others' copyrights, and such infringement was correctly detected using IPP's system.

III. COMPUTATION OF DAMAGES

Pursuant to Fed. R Civ. P. 26(a)(iii), Plaintiff avers the following information about its calculation of damages:

1. Plaintiff seeks statutory damages pursuant to 17 U.S.C. § 504 et seq.
2. Plaintiff seeks costs and attorney's fees pursuant to 17 U.S.C. § 505.

IV. APPLICABLE INSURANCE AGREEMENTS

Pursuant to Fed. R. Civ. P. 26(a)(iv), Plaintiff avers the following about any applicable insurance agreements relating to this matter:

1. There are no claims or counterclaims in this action that are covered by any insurance policy to which Plaintiff is the beneficiary.

DATED THIS 20th day of April, 2018.

FOX ROTHSCCHILD LLP

s/ Bryan J. Case
Bryan J. Case, WSBA #41781
Lincoln D. Bandlow, *Admitted Pro Hac Vice* (CSBA
#170449)

Attorneys for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that on April 20, 2018, a true and correct copy of the foregoing document was served via email to the following:

J. Curtis Edmondson, WSBA #43795
399 NE John Olsen Avenue
Hillsboro, Oregon 97124
Telephone: (503) 336-3749
Email: jcedmondson@edmolaw.com

DATED this 20th day of April, 2018.

By: /s/ Bryan J. Case

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